RICHMOND POLICE DEPARTMENT GENERAL ORDER

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Series	Number	Effective Date	Review Date
6	9	12/08/10	2013

Subject

FAMILY VIOLENCE RESPONSE

☐ New Order

☒ Replaces
G.O. 6-9 (07/09/09)
E.O. 09-15 (08/18/09)

References
CALEA 42.2.1a, 42.2.1b, 42.2.1c, 42.2.1d, 55.2.3a
VLEPSC ADM.02.02h, ***OPR.12.01,*** OPR.13.01a, OPR.13.01b, OPR.13.01c, OPR.13.01d, OPR.13.01e, OPR.13.01f, ***OPR.13.01g, OPR.13.01h***
Code of Virginia §***9.1-1300***, 16.1-241, 16.1-253, 253.1, 253.4, 16.1-228, 16.1-278.9, 18.2-57, 18.2-57.2, 18.2-119, 18.2-60, 18.2-308.1:4, 19.2-81.4, and 19.2-81.3
General Order 1-1, 1-12, ***4-6, 4-9, 7-18***

12/08/10

Chief of Police or Designee — **Date**

I. PURPOSE

The purpose of this directive is to define domestic violence and related offenses, outline a safe procedure for handling violent incidents and calls, prescribe measures to end violence, and protect victims.

II. POLICY

It is the policy of the Richmond Police Department to thoroughly investigate complaints of family violence and to enforce all laws applicable to family violence. Officers shall convey the attitude that violence in the home is criminal behavior and will not be tolerated. The intent of the law and departmental procedures are to protect the health and safety of family and household members. With all due consideration for their own safety, Department personnel responding to a family violence incident call shall: (1) restore order; (2) arrest persons when probable cause exists that a crime has occurred; (3) provide safety and security for the crime victim(s); and, (4) help participants contact appropriate agencies to help prevent future occurrences.

III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this General Order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

IV. DEFINITIONS

A. ASSAULT – See Virginia Code §18.2-57 and 18.2-57.2 ("Assault and Battery Against a Family or Household Member").

1. A related matter, §18.2-60 criminalizes the sending of letters ***or text messages*** to anyone threatening death or injury (Class 6 felony).

2. A Magistrate issuing a warrant for violation of §18.2-57.2 shall also issue an emergency protective order.

B. FAMILY OR HOUSEHOLD MEMBERS – In accordance with §18.2-57.2, 16.1-228, and 19.2-81.3 of the Virginia Code, "family and household members" are defined as:

1. Spouses, whether or not residing in the same home;

2. Former spouses, whether or not residing in the same home;

3. Parents, stepparents, children, stepchildren, brothers/half brothers or sisters/half sisters, grandparents, or grandchildren regardless of whether they reside in the same home as the alleged abuser;

4. Mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law who reside in the same home with the alleged abuser;

5. Any person who has a child in common with the alleged abuser, whether or not the person and that individual have been married, or have resided together at any time, or,

6. Any individual who cohabits or who, within the previous twelve months, cohabited with the alleged abuser, and any children of either of them residing in the same home with the alleged abuser.

NOTE: For purposes of criminal prosecution, RPD officers shall regard same-sex couples and same-sex situations involving partners who cohabit or who have previously cohabited as domestic in nature.

C. FAMILY ABUSE – Any act of violence, force or threat including any forcible detention, which results in bodily injury or places one in reasonable apprehension of bodily injury and which is committed by a person against such person's family or household member (VA Code §16.1-228).

D. PREDOMINANT PHYSICAL AGGRESSOR – The predominant physical aggressor is not necessarily the first disputant to engage in assaultive behavior, but the one with the most ability and inclination to inflict physical injury. Officers shall identify a predominant physical aggressor based on the totality of the circumstances, taking care to make conclusive identification in cases of elder domestic violence. The standards for determining who is the predominant physical aggressor shall be based on the following considerations:

1. Who was the first aggressor;

2. The protection of the health and safety of family

3. Prior complaints of family abuse by the allegedly abusing person involving the family or household members;

4. The relative severity of the injuries inflicted on persons involved in the incident;

5. Whether any injuries were inflicted in self-defense;

6. Witness statements; and

7. Other observations. (VA Code §***19.2-81.3***).

E. STALKING – Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or when he/she knows or reasonably should know their conduct places that person, their family or household member in reasonable fear of death, criminal sexual assault, or bodily injury, shall be guilty of a Class 1 misdemeanor (§18.2-60.3). A person with ***three*** (***3***) or more convictions for similar offenses within five (5) years shall be guilty of a Class ***6*** felony. Further, upon a conviction the court shall impose an order prohibiting contact between the offender and the victim or victim's family or household member.

F. ***DOMESTIC VIOLENCE ENFORCEMENT RESPONSE TEAM (DVERT) Program – Uses a multi-agency approach to coordinate effective problem solving in high-risk domestic violence cases and identifies services for victims and offenders of domestic violence. The goal of the DVERT program is to reduce the recurrence of domestic violence and repeat offenders. Participating victims are categorized into three (3) levels to assist in screening their cases. Categorizations include: Level 3, first-time victims; Level 2, victims who suffer serious bodily injury or who are involved in 3 or more cases of domestic violence within one year; and, Level 1, all felony cases of domestic violence or at the discretion of the assigned detective.***

V. PROCEDURE

A. Initial Response – When responding to family violence situations, the responding officer(s) should wait for a back-up officer before taking the following actions:

1. Establish control of the scene, render/summon medical aid as necessary and protect the crime scene.

2. Separate and interview all parties (victim, suspect, witnesses, and children). Attempt to interview the victim in a location where the alleged abuser cannot see or hear the victim, but not out of visual contact with other officers.

3. Determine whether a crime has been committed and, if an arrest is appropriate, attempt to identify the person(s) who committed the crime, ***the predominant physical aggressor and the relationship between the victim and the predominant physical aggressor.***

4. The predominant physical aggressor shall be arrested and taken into custody, unless special circumstances exist which would dictate a course of action other than an arrest.

5. If a warrant is obtained or an arrest is made for assault and battery against a family or household member, the officer shall petition for an Emergency Protective Order when the suspect is arrested and taken before the magistrate (§19.2-81.3, D).

6. If the suspect has left the scene, the officer shall obtain the appropriate warrants and protective orders and take action to have them served as soon as practical.

7. The officer shall obtain information from the victim as to the possible whereabouts of the suspect, i.e. family members' home and work address, etc.

8. ***The officer shall obtain a working telephone number from the victim and an address from the victim, if the victim is leaving the residence to stay at another location.***

9. After the warrant is obtained, the officer shall enter the information on the daily roll-call sheet to ensure that the wanted party information is shared with all platoons.

10. When making an arrest, the responding officer(s) shall check for any prior convictions of assault against a family or household member by the suspect. In cases not involving a felony, the perpetrator shall be charged with assault and battery against a family or household member (§18.2-57.2).

11. If the perpetrator has previously been convicted of two offenses within the past twenty (20) years against a family or household member involving (i) assault and battery against a family or household member, (ii) malicious wounding, (iii) aggravated malicious wounding, (iv) malicious bodily injury by means of a substance, or (v) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, and each of which occurred on a different date, such person is guilty of a Class 6 felony (18.2-57.2).

12. The responding officer(s) shall advise the victim of available legal and community resources, both orally and in writing.

13. If the family assault suspect is a juvenile, the officer shall call the on-duty Intake Officer ***and follow the established procedures set forth in General Order 7-18, Juvenile, Truancy and Curfew Procedures***.

14. If a warrant is issued for a domestic violence assault suspect, the officer shall provide the victim with forms used to petition for a Preliminary Protection Order with the Juvenile and Domestic Relations Court on the next business day that the court is in session. The officer shall avoid advising the victim to seek the order in the presence of the alleged abuser.

15. The officer(s) shall investigate for signs of child abuse and elder abuse.

16. Upon request and with supervisory approval, the officer may transport an abused person to a safe shelter or to a magistrate when there are no visible signs of injury. When there ***is*** probable cause that a domestic assault has occurred, the officer SHALL make the arrest or obtain an arrest warrant for the suspect. The officer shall also request an Emergency Protective Order. ***If the victim requires medical attention, the officer shall request, through the Division of Emergency Communications (DEC), an ambulance to respond to the scene.***

    NOTE: Officers WILL NOT MAKE a dual arrest on any domestic calls unless probable cause determines the victim showed intent to re-engage the suspect after the initial assault was over. (Example: Female is assaulted by her live-in boyfriend. Boyfriend walks away, cursing. Victim does not leave the address or call the police. Instead, she retrieves a frying pan, conceals herself behind him and calls his name. When boyfriend turns in response, she hits him in the face with the frying pan. In this case, each will be charged appropriately according to injuries.)

    NOTE: An arrest for trespass in such cases where a complainant with property rights alleges that a second individual does not have any property rights and has been told to leave the premises (McCracken v. Commonwealth) is not always justified. Officers must find probable cause based on the facts that the individual attempting to be removed has either entered the premises or remained on the premises without authority of law.

17. The officer shall complete an Incident Based Report (IBR) ***and the domestic violence supplement, located on page two of the IBR. The officer shall provide the victim with the department's domestic violence brochure and ensure the Crime Victim Services Provided module, located in the DV History/Victim Assist tab, is completed.*** The report, ***citing the lack of probable cause,*** shall be taken even if an arrest is not made. The "special circumstances" justifying the decision not to make an arrest must be articulated in the Incident Based Report.

18. The assigned Domestic Violence Team ***detective*** shall follow-up and investigate all felony reports to include obtaining the victim's medical records and providing in-court testimony.

19. An arrest without a warrant may be made in an assault situation, including those involving persons who are not family or household members. Though family abuse protective orders are not available to them, officers should advise the victim of available community resources.

20. The 2nd Responder shall be called whenever an arrest is made for family violence, whenever an emergency protective order is issued, or for violations of any protective order, during the hours that the 2nd Responders are working (1500 to 0700 hours).

B. Investigation – Family abuse victims, for various reasons, may be unavailable to testify during court proceedings. Prosecution of family assault cases may, however, go forward without the assistance of the victim(s). Officers should conduct family assault investigations assuming "victimless prosecution".

1. Collecting Verbal Evidence:

   a. The responding officer should attempt to separate and interview the suspect, victim, and all witnesses, to include children.

   b. To determine the predominant physical aggressor, neighbors and relatives may be interviewed concerning the history of an abusive relationship. ***If those persons do not wish to come to court, their statement shall be considered for probable cause reasons.***

   c. The officer should document any excited utterances of the victim, spontaneous declarations of the suspect, and witness statements for court presentation.

2. Collecting Photographic Evidence – Officers should consider the evidentiary value of the following photographic evidence:

   a. Crime scene and location reference shots;

   b. Suspect – (for court identification in victimless prosecution);

   c. Injuries – (follow-up photographs may be taken within 2 to 7 days); and,

   d. Photographs of children who are present.

3. The following types of physical evidence are valuable in "victimless prosecution":

   a. Crime scene diagrams;

   b. 911 tapes gathered by use of the "Request for Copy of Recorded Transmission from DEC" (PD-107);

   c. Medical documentation (ambulance, ER and hospital records);

   d. Incriminating letters from the alleged abuser; and,

   e. Torn clothing or blood.

4. Evaluating the Evidence:

   a. Compare all evidence collected and statements obtained to determine the predominant physical aggressor; and,

   b. Attempt to reconstruct the crime to determine what occurred, whether any wounds were inflicted in self-defense, and whether the physical evidence corroborates the statements collected.

C. The officer shall prepare a case file for the Commonwealth's Attorney in accordance with departmental guidelines (General Order ***I-12***, Use of the Commonwealth's Attorney Office).

D. Protective Orders in Cases of Family Abuse:

1. Violation of any one or more of the below listed provisions of a family abuse protective order is a Class I misdemeanor, in which an arrest without a warrant is authorized (§19.2-81.3). A violation of conditions not listed below should be referred back to the issuing authority (§16.1-253.2):

   a. Going to or remaining on land, buildings or premises prohibited in the order;

   b. Committing further acts of family abuse; or,

   c. Contacting family or household members as prohibited in the order.

2. It is illegal for the subject of a protective order to purchase or transport a firearm while the order is in effect. The penalty is a Class I misdemeanor and forfeiture of the weapon (§18.2-308.1:4).

3. Protective orders must be served as soon as possible on the alleged abuser.

4. Officers shall verify that any emergency protective order has been signed by a magistrate or judge.

5. Protective orders become effective only upon personal service to the alleged abusive person.

6. Officers shall review the conditions of the protective order to determine whether the subject is in violation of the conditions of the order.

7. Officers shall check to be sure that the protective order has not expired.

E. Emergency Protective Orders (EPO) (§16.1-253.4):

1. The judge or magistrate must find that:

   a. A warrant has been issued for the suspect (§18.2-57.2) and there is probable cause of further acts of family abuse against a family or household member by the respondent (alleged abuser), or

   b. Reasonable grounds exist to believe that the suspect has committed family abuse, and there is probable danger of further acts of family abuse against a family or household member by the respondent.

2. A judge or magistrate may issue a written or an oral EPO. The requesting officer or magistrate, on the pre-printed form must reduce oral EPOs to writing.

3. A law enforcement officer or alleged abused person may petition for an EPO. If an arrest for assault against a family or household member is made, the arresting officer shall provide a Preliminary Protective Order form to the protected person when giving an EPO to the protected person. (§16.1-253.4)

4. The following conditions may be imposed on the respondent:

a. Prohibition of any acts of family abuse;

b. Prohibition of contact with designated family or household members; and,

c. Granting the family or household member possession of the residence to the exclusion of the respondent.

5. An officer may apply for a 72-hour extension of an EPO on behalf of a person who is medically incapable of filing for a preliminary or permanent protective order (e.g., a person who is comatose).

6. An EPO ***issued pursuant to the VA Code shall*** expire ***at 2359 hours on the third day*** (72 hours) ***following*** issuance, unless the expiration occurs at a time that the family court is not in session. If the order expires while the court is not in session, the Emergency Protective Order ***shall expire at 2359*** hours on the next business day that the family court is in session.

7. Copies of the Emergency Protective Order shall be distributed as follows:

a. Original – Forwarded to issuing authority for verification and filing with the Court Clerk. ***If the EPO is served, the court's copy shall be returned to Warrant and Information Services for entry into VCIN. If the EPO is not served, it shall be taken to Warrant and Information Services for entry into VCIN and be placed on file with the warrant;***

b. One copy shall be served on the alleged abuser;

c. One copy shall be given to the allegedly abused person;

d. Officers are encouraged to keep a two-sided copy for themselves and/or their relief in cases where the alleged abuser could not be immediately located;

e. A copy should be included in the case folder for the Commonwealth's Attorney; and,

f. Precincts shall place the EPO copy on the read-off sheet to be reviewed at roll call.

F. Preliminary Protective Orders (§16.1-253.1):

NOTE: Officers shall be provided with Preliminary Protection Order forms which shall be given to the family violence victim.

1. Preliminary Protective Orders may be issued by the court when the allegedly abused person asserts by affidavit or sworn testimony, that he/she has been or is in immediate and present danger of becoming a victim of family abuse.

2. Preliminary Protective Orders specify a date ***and time*** for a full hearing, which must be within 15 days of issuance ***and expire on that specific date and at that specific time***.

3. ***Preliminary Protective Orders issued pursuant to the VA Code shall expire on the date and time listed on the order. If the order is extended by the court, the new order with the extended date and time shall be entered into VCIN. A copy of the extended order shall be given to all involved parties.***

4. The following conditions may be imposed on the respondent/alleged abuser:

   a. Prohibiting acts of family abuse, and prohibiting contact between the parties, as the court deems appropriate;

   b. Granting the family or household members possession of the residence to the exclusion of the alleged abuser;

   c. Granting the family or household member temporary possession of any motor vehicle owned by the petitioner or jointly owned to the exclusion of the alleged abuser; and,

   d. Requiring the alleged abusive person to provide suitable alternative housing for family or household members.

G. Protective Orders Referred to as "Permanent Protective Orders" (§16.1-279.1):

1. Protective orders are issued by the court and may be valid up to two (2) years. ***Protective Orders expire at 2359 hours on the final date of the order. If, for any reason, there is no date or time specified for the expiration of the order, it shall expire two years from the date of issuance at 2359 hours.***

2. In addition to the conditions outlined for Preliminary Protective Orders, the Permanent Protective Order may include ordering the respondent into treatment, providing for custody and/or visitation of children or any other relief necessary to protect the petitioner.

H. Protective Orders from Other Jurisdictions (§16.1-279.1E):

1. Any permanent or temporary court order from other states or possessions of the United States are enforceable in Virginia, under the Code Section cited above, and,

2. Officers may rely upon a copy of the order or other suitable evidence, ***such as a VCIN/NCIC entry or a copy of the order obtained from the protected party (victim).***

I. Reporting Procedures:

1. The Incident Based Report:

   a. A written report ***for assault on a family or household member*** is required ***for any alleged assault whether or not probable cause exists for an arrest.*** If the officer does not make an arrest, the "special circumstances" ***or lack of probable cause*** must be ***fully*** documented.

b. The narrative shall include all statements and evidence collected and should state if an emergency protective order was obtained and served ***and the conditions set forth in the order*** (or an explanation of why one was not obtained ***or not issued***). The narrative ***shall*** also include:

1) ***The facts and circumstances leading up to the assault behavior;***

2) How and where the victim was struck;

3) If medical treatment was required; ***and,***

4) ***The relationship between the victim and suspect.***

2. Completing the ***Domestic Violence Form (page two of the IBR)***:

a. The officer shall record all of the required information on the ***domestic violence*** form; and;

b. ***Submit*** it along with the IBR.

J. ***Domestic Violence Incidents Involving Law Enforcement Personnel:***

No special privilege or consideration will be given to any active or former law enforcement employee who becomes involved in a family violence situation.

1. ***If the predominant physical aggressor or abuser is*** a ***RPD*** law enforcement officer or Department employee, ***the responding officer shall*** immediately notify a supervisor, ***who shall, in turn, notify his/her chain of command.***

NOTE: ***According to General Order, 1-1, Code of Conduct, employees shall communicate to their Commanding Officer any violation of the Department's Rules and Regulations, the infraction of which would bring discredit to the Department.***

2. ***The scene shall be secured and medical attention summoned, if required. The employee shall be disarmed or removed from access to weapons. The possibility exists that the employee's Departmental weapon may be evidence of an offense.***

3. ***The on-call Internal Affairs investigator shall be summoned who shall begin an internal investigation.***

a. ***If probable cause to arrest exists, the Internal Affairs investigator shall arrest and gather evidence, including taking photographs.***

b. ***The assigned Internal Affairs investigator shall work with the responding patrol officer to ensure that the victim receives medical attention, if necessary, is transported to a safe shelter and that all reports are completed and evidence gathered. The Internal Affairs Detective shall assist in obtaining a protective order and confiscating the officer's weapon.***

NOTE: Persons who are the subject of a protective order may not legally carry a firearm.

c. ***The Internal Affairs investigator will notify the Commonwealth's Attorney.***

4. ***The officer's police powers shall be withdrawn or restricted in accordance to General Order 4-9, Withdrawal or Restriction of Police Powers.***

5. ***If the predominant physical aggressor or abuser is an employee of another law enforcement agency, the responding officer shall notify the supervisor on-duty. The supervisor is required to notify that employee's law enforcement agency of any domestic violence, stalking, serious bodily injury crimes or issuance of a protective order. The supervisor should request to speak with the on-duty supervisor of that agency and relay all pertinent information.***

K. ***DVERT Program:***

1. ***Identifying high-risk cases involving repeat victims and offenders to refer to the DVERT program:***

   a. ***Two or more reported incidents of domestic assault within six months or three times in one year; or,***

   b. ***All felonious domestic violence incidents; or,***

   c. ***Any domestic violence incident involving serious bodily injury that may not have been classified as felonious; or,***

   d. ***Previous reports involving the victim and offender that were not assault in nature; or,***

   e. ***Numerous domestic violence calls for service at a specific address where no report was taken because no crime was committed.***

2. ***After identifying cases for the DVERT program, DVERT members shall (with the approval and cooperation of the victim):***

   a. ***Contact the victim and perform a danger assessment within 72 hours;***

   b. ***Assist the victim in drafting a safety plan;***

   c. ***Schedule counseling services on behalf of the victim;***

   d. ***Assist the victim in obtaining Protective Orders and other services, as needed;***

   e. ***Identify the offender and ensure proper charges have been filed against the offender;***

f. ***Attend the offender's arraignment, speak to the Commonwealth Attorney about bond, conditions of bonds etc. and ensure the offender has been served with his/her copy of the Protective Order; and,***

g. ***Follow up with the victim to ensure the victim's needs have been met.***

VI. FORMS

A. PD-107, Request for Copy of Recorded Transmission from DEC

B. IBR

C. IBR ***Domestic Violence*** Supplemental Form